

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

Clinton Eugene Gilley, as Administrator  
of the Estate of CARL DAVID GILLEY,  
Nicole Leigh Le, as Administrator of the  
Estate of CHRISTINE TARA WARDEN GILLEY,  
and Clinton Eugene Gilley and Nicole  
Leigh Le as Co-Administrators of the  
Estates of J.G. and G.G., minor children,

Plaintiffs,

v.

CIVIL ACTION NO. 1:18-00536

C.H. ROBINSON WORLDWIDE, INC.,  
J&TS TRANSPORT EXPRESS, INC.,  
and BERTRAM COPELAND,

Defendants.

**MEMORANDUM OPINION AND ORDER**

Pending before the court is defendant C.H. Robinson's motion to strike plaintiffs' reply briefs or for permission to file its own reply briefs. (ECF No. 281.) Robinson argues that because the court's amended scheduling order specified dates for motions in limine and opposition thereto but did not specify a date for reply briefs, reply briefs are not permissible under the scheduling order. Plaintiffs contend that, notwithstanding the silence of the scheduling order, their reply briefs are permissible under this court's local rules. See LR Civ. P. 7.1(a)(7). Plaintiffs propose that Robinson be given leave to file its own reply briefs; alternatively, plaintiffs offer to

withdraw their reply briefs. The court will adopt the first proposal and allow Robinson to file its own reply briefs within seven days of this order.

The question is basically whether the silence of the scheduling order implicitly prohibits or implicitly allows reply briefs. Both positions are eminently reasonable. Accordingly, fundamental fairness requires either striking the replies or allowing Robinson to file its own. Robinson suggests that judicial economy favors striking the replies. While Robinson may be correct, it is just as likely that the replies will help narrow the issues. The docket entries are numerous in this matter, but both sides have skilled counsel whose briefs the court has found helpful in resolving the issues raised in this case thus far. The court, therefore, welcomes the opportunity to review Robinson's reply briefs in resolving the motions in limine.

Accordingly, Robinson's motion to strike (ECF No. 281) is **GRANTED** in part. The court will not strike plaintiffs' reply briefs, but Robinson may file its own reply briefs on or before July 23, 2021.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record.

**IT IS SO ORDERED** this 16th day of July, 2021.

ENTER:

David A. Faber

David A. Faber

Senior United States District Judge